

² Appellant submitted new medical evidence with his appeal. The Board, however, has no jurisdiction to review new evidence on appeal. *See* 20 C.F.R. § 501.2(c)(1).

FACTUAL HISTORY

On May 28, 2014 appellant, then a 53-year-old city carrier, filed an occupational disease claim alleging that he sustained a condition as a result of “repetitive motion from casing and delivering mail.” He did not stop work. In a May 29, 2014 statement, appellant related that he experienced progressively worsening shoulder pain that began at the start of his workday and gradually increased throughout the day. He described his work duties.

By letter dated June 4, 2014, OWCP requested that appellant submit additional factual and medical evidence, including a detailed report from a physician addressing the relationship between any diagnosed condition and the identified work factors.

In a report dated March 19, 2014, received by OWCP on June 24, 2014, Dr. Max A. Nevarez, Jr., who specializes in family medicine, evaluated appellant for left shoulder pain. He noted that appellant had no history of trauma but did experience pain sorting mail in his job. On examination, Dr. Nevarez found positive impingement signs without swelling, erythema, or reduced motion. He diagnosed left shoulder tendinitis and rotator cuff syndrome.

On May 21, 2014 Dr. Nevarez discussed appellant’s complaints of continuing left shoulder pain particularly when casing or holding mail. He diagnosed rotator cuff tendinitis and suspected the condition was work related.

By decision dated July 7, 2014, OWCP denied appellant’s claim as the medical evidence was insufficient to show that he sustained a diagnosed condition as a result of the identified work factors.

On July 24, 2014 appellant requested an oral hearing before an OWCP hearing representative.

In a report dated August 15, 2014, Dr. Nevarez diagnosed rotator cuff tendinitis/impingement syndrome. He noted that appellant had worked at the employing establishment “for a number of years.” Dr. Nevarez stated:

“[Appellant] has noted discomfort gradually starting around [six] months ago, and has progressed in intensity. [He] states that this pain is exacerbated and increased by his repetitive motion while casing mail and holding mail, utilizing his left arm. [Appellant] denies any injury elsewhere. It is my opinion that [his] rotator cuff injury is, in fact, a direct result of repetitive motion acquired while working at his place of employment, namely the [employing establishment]. There is no other etiology possible, other than the direct involvement of [his] employment.”

At the hearing, held on November 19, 2014, an OWCP hearing representative advised appellant and his representative that Dr. Nevarez should submit a report explaining why casing mail resulted in his condition.

By decision dated January 28, 2015, an OWCP hearing representative affirmed the July 7, 2014 decision. She found that the Dr. Nevarez did not sufficiently explain his opinion that work factors caused appellant’s left shoulder condition.

On appeal appellant argues that the reports from Dr. Nevarez support that his condition resulted from work activities. He notes that he asked his orthopedist to submit reports, but was “unable to force the issue.”

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;⁶ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁷ and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁹ must be one of reasonable medical certainty¹⁰ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹¹

³ 5 U.S.C. § 8101 *et seq.*

⁴ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁷ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁸ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁹ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

¹⁰ *John W. Montoya*, 54 ECAB 306 (2003).

¹¹ *Judy C. Rogers*, 54 ECAB 693 (2003).

ANALYSIS

Appellant attributed his left shoulder condition to casing and delivering mail. OWCP accepted the claimed employment factors. The issue, therefore, is whether the medical evidence established a causal relationship between the claimed conditions and the identified employment factors.

On March 19, 2014 Dr. Nevarez discussed appellant's complaints of left shoulder pain. He had no history of a specific injury beyond appellant's statement that he experienced pain sorting mail at work. Dr. Nevarez diagnosed left shoulder tendinitis and rotator cuff syndrome. He did not specifically address the cause of the diagnosed conditions.

In a report dated May 21, 2014, Dr. Nevarez noted that appellant experienced continuing left shoulder pain particularly when casing or holding mail. He diagnosed rotator cuff tendinitis and suspected that the condition was work related. Dr. Nevarez' suspicion that appellant's condition was related to employment factors is speculative and of diminished probative value.¹² Further, he did not provide any rationale for his causation finding. A mere conclusion without the necessary rationale explaining how and why the accepted exposure could result in a diagnosed condition does not meet a claimant's burden of proof.¹³

On August 15, 2014 Dr. Nevarez diagnosed rotator cuff tendinitis and impingement syndrome. He discussed appellant's history of increasing discomfort beginning six months earlier aggravated by his repetitive duties of casing and holding mail. Dr. Nevarez found that appellant's rotator cuff injury was directly related to his repetitive work duties and that there was no other potential etiology. He did not, however, provide any rationale for this conclusion. To be of probative value, the physician must provide rationale for the opinion reached. Where no such rationale is present, the medical opinion is of diminished probative value.¹⁴

On appeal appellant argues that the reports from Dr. Nevarez are sufficient to show that he sustained a condition as a result of his work duties. Appellant also contends that his orthopedist did not submit reports as requested. However, he has the burden to submit a physician's opinion that a condition is causally related to his federal employment that is supported with affirmative evidence, explained by medical rationale, and based upon a complete and accurate medical and factual background.¹⁵ This appellant has not done.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

¹² *Id.*

¹³ *See supra* note 8.

¹⁴ *Jean Culliton*, 337 ECAB 728 (1996).

¹⁵ *See A.D.*, 58 ECAB 149 (2006); *see S.S.*, 59 ECAB 315 (2008); *T.F.*, 58 ECAB 128 (2006).

CONCLUSION

The Board finds that appellant has not established that he sustained a left shoulder condition causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the January 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 17, 2015
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board